



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2630

DATE SCANNED 9-17-13

SCANNER NO. 2

SCAN OPERATOR CMD

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2013 FEB -4 PM 1:44

February 4, 2013

MEMORANDUM

SENSITIVE

TO: The Commission

THROUGH: Alec Palmer *AP*
Staff Director

FROM: Patricia C. Orrock *PC/PO*
Chief Compliance Officer

Debbie Chacona *DC*
Assistant Staff Director
Reports Analysis Division

BY: *JW* Jodi Winship/Sari Pickeral *JP*
Compliance Branch

SUBJECT: Reason To Believe Recommendation – 2012 30 Day Post-General
Report (Authorized Committees) For The Administrative Fine
Program

Attached is a list of political committees and their treasurers who failed to file or timely file the 2012 30 Day Post-General Report in accordance with 2 U.S.C. 434(a). The list is comprised of authorized committees whose candidates sought election in the November 6th General Election.

The committees listed in the attached RTB Circulation Report either failed to file the report, or filed the report more than thirty (30) days after the due date (considered a non-filed report). In accordance with the schedule of civil money penalties for reports at 11 CFR 111.43, these committees should be assessed the civil money penalties highlighted on the attached circulation report.

Recommendation

1. Find reason to believe that the political committees and their treasurers listed on the RTB Circulation Report violated 2 U.S.C. 434(a) and make a preliminary

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determination that the civil money penalties would be the amounts indicated on the RTB Circulation Report.

2. Send the appropriate letters.

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Federal Election Commission
Reason to Believe Circulation Report
2012 POST-GENERAL Not Election Sensitive 12/06/2012 AUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
2830	C00521989	ALEX PIRES FOR U S SENATE	PIRES, ALEXANDER J JR	STEPHEN W. SPENCE	\$822,949	0	1/9/2013	Not Filed	\$98,161	\$3,850
2833	C00498311	IMUS FOR CONGRESS	IMUS, GREGG	CHAD HANEY	\$228,972	0		Not Filed	\$28,622 (est)	\$990
2835	C00509588	SHELDON FOR CONGRESS	SHELDON, CHRISTOPHER	PATRICIA TOYE	\$142,980	0	12/15/2012	9	\$33,858	\$380

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Reason To Believe Recommendation - 2012)
30 Day Post-General Report (Authorized)
Committees) for the Administrative Fine)
Program:)
ALEX PIRES FOR U S SENATE, and) AF# 2630
STEPHEN W SPENCE as treasurer;)

IMUS FOR CONGRESS, and CHAD) AF# 2633
HANELY as treasurer;)

SHELDON FOR CONGRESS, and) AF# 2635
PATRICIA TOYE as treasurer;)

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on February 05, 2013 the Commission took the following actions on the Reason To Believe Recommendation - 2012 30 Day Post-General Report (Authorized Committees) for the Administrative Fine Program as recommended in the Reports Analysis Division's Memorandum dated February 04, 2013, on the following committees:

AF#2630 Decided by a vote of 5-0 to: (1) find reason to believe that ALEX PIRES FOR U S SENATE, and STEPHEN W SPENCE as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2633 Decided by a vote of 5-0 to: (1) find reason to believe that IMUS FOR CONGRESS, and CHAD HANELY as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2635 Decided by a vote of 5-0 to: (1) find reason to believe that SHELDON FOR CONGRESS, and PATRICIA TOYE as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

February 6, 2013
Date

Shawn Woodhead Werth
Shawn Woodhead Werth
Secretary and Clerk of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 6, 2013

Stephen W. Spence, in official capacity as Treasurer
Alex Pires for U S Senate
1200 N Broom Street
Wilmington, DE 19806

C00521989
AF#: 2630

Dear Mr. Spence:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a 30 Day Post-General Report of Receipts and Disbursements in a calendar year during which there is a regularly scheduled general election for which the candidate sought election. This report, covering the period through November 26, 2012, shall be filed no later than December 6, 2012. 2 U.S.C. 434(a). Because records at the Federal Election Commission ("FEC") indicate that you did not file this report within thirty (30) days of the due date, the report is considered not filed for the purpose of calculating the civil money penalty.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. 434(a). 2 U.S.C. 437g(a)(4). On February 5, 2013, the FEC found that there is reason to believe ("RTB") that Alex Pires for U S Senate and you, in your official capacity as treasurer, violated 2 U.S.C. 434(a) by failing to file timely this report on or before December 6, 2012. Based on the FEC's schedules of civil money penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$3,850. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 CFR § 111.34. Your payment of \$3,850 is due within forty (40) days of the finding, or by March 17, 2013, and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive

Level of Activity: \$98,161

Number of Days Late: Not Filed (reports not filed within thirty (30) days of the due date are considered not filed for the purpose of calculating the penalty)

Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

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If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found at the top of page 1 under your committee's identification number, to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must be received within forty (40) days of the Commission's RTB finding, or March 17, 2013. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 CFR § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. district court under 2 U.S.C. § 437g. 11 CFR § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Alex Fires for U S Senate and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate

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action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with your payment, to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. § 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on the public record in accordance with 11 CFR § 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Sari Pickerall in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Ellen L. Weintraub
Chair

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ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at RTB is \$3,850 for the 2012 Post-General Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission
P.O. Box 979058
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox
FEC #979058
1005 Convention Plaza
Attn: Government Lockbox, SL-MO-C2GL
St. Louis, MO 63101

The remittance and your payment are due by March 17, 2013. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Alex Pires for U S Senate

FEC ID#: C00521989

AF#: 2630

PAYMENT DUE DATE: March 17, 2013

PAYMENT AMOUNT DUE: \$3,850

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PHILLIPS, GOLDMAN & SPENCE, P. A.

JOHN C. PHILLIPS, JR.
STEPHEN W. SPENCE*
ROBERT S. GOLDMAN**
LISA C. McLAUGHLIN*
JAMES P. HALL
DAVID A. BILSON***
MEGAN C. HANEY
STEPHEN A. SPENCE
AARON C. BAKER

ATTORNEYS AT LAW
PENNSYLVANIA AVE. AND BROOM ST.
1200 N. BROOM STREET
WILMINGTON, DELAWARE 19806

(302) 655-4200
(302) 655-4210 (F)
www.pgslaw.com

ALSO MEMBER OF
*PENNSYLVANIA BAR
**NEW JERSEY BAR
*MARYLAND BAR
*FLORIDA BAR

March 14, 2013

FEDERAL EXPRESS

FEC Office of Administrative Review
999 E. Street, NW
Washington, D.C. 20463

RE: AF#: 2630; C00521989

To Whom It May Concern:

May this letter serve as a challenge to the RTB finding, as described in the enclosed February 6, 2013 letter, against Alex Pires for U.S. Senate (the "Campaign"). The Campaign concedes that it failed to timely file the 30 Day Post-General Report. The Campaign, however, believes that the circumstances warrant vacating or eliminating the \$3,850 civil penalty.

By way of background, both the candidate and the treasurer had never before run a campaign for elective office. As such, the Campaign progressed on a steep learning curve, with everyone trying their best to comply with all State and Federal laws, regulations, and rules. Leading up to Election Day, great effort was expended to ensure the Campaign was in compliance; however, the impetus to devote daily attention to these matters, and the staff available to do it, waned once the ballots were tallied resulting in a loss. Furthermore, the Campaign is now closed and insolvent. Its final debts will have to be paid by Mr. Pires.

The Campaign believed in good-faith that, after the election, only the Year-End report remained due. This belief was based upon the fact that Election Day was only seven weeks from the end of 2012. Of course, this belief was incorrect.

When the Campaign realized its failure to file a Post-General report on or around December 11, 2012, it worked as quickly as it could to put together an accurate and complete report. Specifically, my daughter (who is a full time middle school teacher) and I used Aristotle software to prepare the report, and the report was signed and sent by Fed-Ex on January 9, 2013. Please also note that the Campaign timely filed its Year End report on January 30, 2013. It's final termination report will be filed within the next work week.

**FEC OFFICE OF
ADMIN REVIEW**
2013 MAR 18 PM 12:08

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This demonstrates that, upon receiving notice of its failure, the Campaign used its best efforts with a skeleton staff to file the Post-General report as quickly as practical.

Accordingly, on behalf of the Campaign, I ask that you consider reducing or eliminating the civil penalty.

Sincerely,


Stephen W. Spence
Treasurer, Alex Pires for U.S. Senate

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Via First Class Mail

March 18, 2013

Stephen W. Spence, in official capacity as Treasurer
Alex Pires for U S Senate
1200 N Broom Street
Wilmington, DE 19806

C00521989

AF#: 2630

Dear Mr. Spence:

On March 18, 2013, the Commission received your written response ("challenge") which is being reviewed by the Office of Administrative Review. If you have any questions regarding your challenge, please contact this Office on our toll free number (800)424-9530 (press 0, then ext. 1660) or (202)694-1660.

Sincerely,

A handwritten signature in black ink that reads "Rhiannon Magruder". The signature is written in a cursive, flowing style.

Rhiannon Magruder
Acting Reviewing Officer
Office of Administrative Review

13092690748

Date: March 20, 2013

**REFERRAL TO OFFICE OF ADMINISTRATIVE REVIEW
CHALLENGE RECEIVED**

AF#: 2630

Committee Name: Alex Pires for US Senate

Committee ID#: C00521989

Committee Address (if different than in RTB letter): N/A

Treasurer Name (if different than in RTB finding): N/A

Attachments:

- **Copy of RTB Circulation Report, dated February 4, 2013 and RTB Certification, dated February 6, 2013 (Y/N): Y**
- **Proof of Delivery (to be forwarded at later date if not yet received) (Y/N): Y**
- **Other Relevant Telecoms (Y/N): N**
- **Original Correspondence Received by RAD in Response to RTB Letter (Y/N): N**
- **RAD Staff Declaration (Y/N): Y**
 - 2012 30 Day Post-General Report Notice, dated October 1, 2012.
 - Non-Filer Letter, dated December 18, 2012.
 - RTB Letter, dated February 6, 2013.
- **Other RAD Information: (Y/N): N**

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Delivery Notification

Dear Customer,

This notice serves as proof of delivery for the shipment listed below.

Tracking Number: 1Z WF5 860 A2 9825 509 8
Reference Number(s): RAD, 2630
Service: NEXT DAY AIR
Special Instructions: ADULT SIGNATURE REQUIRED
Shipped/Billed On: 02/05/2013
Delivered On: 02/07/2013 9:11 A.M.
Delivered To: 1200 N BROOM ST
WILMINGTON, DE, US 19806
Signed By: ARNOFD
Location: OFFICE

Thank you for giving us this opportunity to serve you.

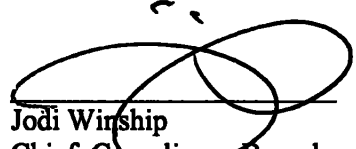
Sincerely,
UPS

Tracking results provided by UPS: 02/07/2013 11:05 A.M. ET

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DECLARATION OF JODI WINSHIP

1. I am the Chief of the Compliance Branch for the Reports Analysis Division of the Federal Election Commission ("Commission"). In my capacity as Chief of the Compliance Branch, I oversee the initial processing of the Administrative Fine Program. I make this declaration based on my personal knowledge and, if called upon as a witness, could and would testify competently to the following matters.
2. I hereby certify that documents identified herein are true and accurate copies of the following sent by the Commission to Alex Pires for US Senate:
 - A) Report Notice, dated October 1, 2012, referencing the 2012 30 Day Post-General Report (sent via electronic mail to: sws@pgslaw.com);
 - B) Non-Filer Letter, dated December 18, 2012, referencing the 2012 30 Day Post-General Report;
 - C) Reason-to-Believe Letter, dated February 6, 2012 referencing the 2012 30 Day Post-General Report.
3. I hereby certify that I have searched the Commission's public records and find that Alex Pires for US Senate filed the 2012 30 Day Post-General Report with the Commission on January 9, 2013.
4. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct and that all relevant telecoms for the matter have been provided. This declaration was executed at Washington, D.C. on the 18th day of March, 2013.



Jodi Winship
Chief, Compliance Branch
Reports Analysis Division
Federal Election Commission

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GENERAL ELECTION REPORT NOTICE

FEDERAL ELECTION COMMISSION

CONGRESSIONAL COMMITTEES

October 1, 2012

CURRENT REPORT DUE FOR 2012 GENERAL ELECTION CANDIDATE COMMITTEES

REPORT	REPORTING PERIOD	REG/CERT & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
Pre-General	10/01/12 - 10/17/12	10/22/12	10/25/12
48-Hour Notices	10/18/12 - 11/03/12	-- general candidates only -- see filing info --	
Post-General	10/18/12 - 11/26/12	12/06/12	12/06/12

REPORTING SCHEDULE FOR REMAINDER OF 2012

2012 GENERAL ELECTION CANDIDATES

REPORT	REPORTING PERIOD	REG/CERT & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
Year-End	11/27/12 - 12/31/12	01/31/13	01/31/13

UNSUCCESSFUL 2012 PRIMARY ELECTION CAMPAIGN COMMITTEES AND CANDIDATES NOT ACTIVE IN 2012 ELECTIONS

REPORT	REPORTING PERIOD	REG/CERT & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
Year-End	10/01/12 - 12/31/12	01/31/13	01/31/13

[Click here for Supplemental Filing Information](#)

¹A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered up through the close of books for the first report due.

2012 SUPPLEMENTAL FILING INFORMATION CONGRESSIONAL COMMITTEES

PLEASE NOTE: The Commission provides reminders of upcoming filing dates as a courtesy to help committees comply with the filing deadlines set forth in the Act and Commission regulations. Committee treasurers must comply with all applicable filing deadlines established by law, and the lack of prior notice does not constitute an excuse for failing to comply with any filing deadline.

WHO MUST FILE

Principal campaign committees of congressional candidates ¹ (including unopposed candidates and candidates whose names do not appear on the ballot) must file Quarterly Reports in 2012. ²

Campaigns that raise or spend more than \$5,000 for the 2012 election cycle (and thus trigger registration and reporting requirements) must file quarterly reports throughout 2012, even if the candidate plans to retire, withdraws from the race prior to the primary election, loses the primary or drops out of the race prior to the general election. See 11 CFR 104.5(a)(2).

Before a committee can stop filing with the FEC, it must file a termination report with the Commission. See 11 CFR 102.3. Committees must continue to file reports until the Commission notifies them in writing that their termination report has been accepted.

METHODS OF FILING REPORTS

Electronic Filing

Reports filed electronically must be received and validated by the Commission by 11:59 p.m. Eastern Time on the filing deadline. See 11 CFR 104.5(e). See also 11 CFR 104.18 and 100.19.

- Web Page: Electronic Filing Page
- Campaign Guide for Congressional Candidates and Committees (Candidate Guide), pp. 83-86 [PDF]

Paper Filing - Meeting the Filing Deadline

Paper Report filing options -- Registered, Certified or Overnight or First Class Mail.

See 11 CFR 104.5(e). See also 11 CFR 100.19.

- Web Page: Link to Paper Forms (for downloading and printing)
- Candidate Guide, p. 82 [PDF]

¹ Generally, an individual becomes a candidate for federal office (and thus triggers registration and reporting obligations) when his or her campaign exceeds \$5,000 in either contributions or expenditures. If the campaign has not crossed the \$5,000 threshold, it is not required to file reports. See 11 CFR 100.3(a). See also 11 CFR 104.5(a).

² If a candidate has more than one authorized committee, the principal campaign committee files a consolidated report on Form 3Z [PDF]. See 11 CFR 104.3(f).

PRE- AND POST-ELECTION REPORTS

The principal campaign committee of any candidate participating in a 2012 state primary, nominating convention or runoff election -- even if unopposed -- must also file a pre-election report 12 days prior to the primary, nominating convention or runoff. The principal campaign committee of a candidate who participates in the general election must file pre- and post-general election reports. See 11 CFR 104.5(a)(2).

- Web Page: 2012 Congressional Pre-Primary Reporting Dates
- The Record:
 - FEC Record Blog: Reporting
 - January 2012 issue [PDF]
- Candidate Guide, pp. 81-82 [PDF]

48 HOUR NOTICES OF CONTRIBUTIONS

The principal campaign committee must file notices if any authorized committees receive any contribution (including in-kind gifts or advances of goods or services; loans from the candidate or other non-bank sources; and guarantees or endorsements of bank loans to the candidate or committee) of \$1,000 or more per source, during the period less than 20 days but more than 48 hours before any election in which the candidate is running. See 11 CFR 104.5(f).

The notices must reach the appropriate federal filing office within 48 hours of the committee's receipt of the contribution(s). **Campaign committees that file electronically MUST submit their 48-hour notices electronically.** See 11 CFR 104.5(f).

- Web Page: Electronic Filing Page
- Web Page: Link to Paper Forms (for downloading and printing)
- Web Page: Link to Web Form 6 (for online submission)
- Form 6 Fax numbers
 - Senate campaigns (Secretary of the Senate): (202) 224-1851
 - House Campaigns (FEC): (202) 219-0174
- Campaign Guide: Candidate Guide, p. 81 [PDF]

2012 REPORTING SCHEDULE

- Web Page: 2012 Reporting Dates Page
- The Record:
 - FEC Record Blog: Reporting
 - January 2012 issue [PDF]
- Candidate Guide, p. 83 [PDF]

COMPLIANCE

Treasurer Responsibility

Committee Treasurers are responsible for both the timeliness and the accuracy of all reports. They may be subject to monetary penalties if reports are inaccurate or are not filed on time. See 11 CFR 104.14(d).

- Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings [PDF]
- Candidate Guide, p. 7-9 [PDF]

Administrative Fine Program

Political committees and their treasurers who fail to file their reports on time may be subject to civil money penalties up to \$17,600 (or more for repeat late- and non-filers).³ See generally, 11 CFR Part 111 Subpart B. See also 11 CFR 111.43.

- Web Page: Administrative Fine Program
- Candidate Guide, pp. 82-83 [PDF]

DISCLOSURE OF LOBBYIST BUNDLING ACTIVITY

Campaign committees must file FEC Form 3L [PDF] if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of \$16,700 during the applicable reporting period (see page 1 of this notice). See 11 CFR 104.22 and 11 CFR 110.17(f).

- The Record: March 2009 issue [PDF]
- Candidate Guide, Appendix F, pp. 155-161 [PDF]

IMPORTANT FILING INFORMATION - PAPER FILERS

In response to the 2001 anthrax threat, the U.S. Postal Service is irradiating mail directed to many federal agencies, including the FEC and the Secretary of the Senate.⁴ This process has not only delayed mail delivery, it has also damaged and in some cases destroyed pieces of mail. As a result, committees that file reports with the FEC may want to consider submitting their reports by some means other than U.S. mail. Alternative methods include electronic filing, overnight mail or delivery service, and hand delivery.

³ Penalties for late- or non-filing of 48-hour notices are based on the amount of contributions not timely disclosed. As a result, these penalties may exceed \$17,600, even for first-time violations.

⁴ Senate committees should contact the Secretary of the Senate at (202) 224-0322 for more information on filing reports via US mail.

FOR INFORMATION, CALL: (800) 424-9530 or (202) 694-1100

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 18, 2012

RQ-7

STEPHEN W SPENCE, TREASURER
ALEX PIRES FOR U S SENATE
1200 N BROOM ST
WILMINGTON, DE 19806

IDENTIFICATION NUMBER: C00521989

REFERENCE: POST-GENERAL REPORT 10/18/2012 - 11/26/2012

Dear Treasurer:

It has come to the attention of the Federal Election Commission that you may have failed to file the above referenced report of receipts and disbursements or failed to file a report covering the entire reporting period as required by the Federal Election Campaign Act, as amended.

It is important that you file this report immediately. The report must be filed with the Federal Election Commission, 999 E Street, N.W., Washington, DC 20463 for House candidates, or the Secretary of the Senate, 232 Hart Senate Office Building, Washington, DC 20510 (if sent via overnight delivery service) or Senate Office of Public Records, P.O. Box 77578, Washington, DC 20013-7578 (if sent via USPS) for Senate Candidates. Please note that electronic filers must submit their reports electronically, as per 11 CFR §104.18. A copy of the report must also be filed with the Secretary of State or equivalent State officer unless the State is exempt from the federal requirement to receive and maintain paper copies. You can verify the Commission's receipt of any documents submitted by your committee on the FEC website at www.fec.gov.

The failure to timely file a complete report may result in civil money penalties, an audit or legal enforcement action. The civil money penalty calculation for late reports does not include a grace period and begins on the day following the due date for the report. Due to heightened security screening measures, delivery of mail by the US Postal Service may be delayed. The Commission recommends that you submit your report via overnight delivery or courier service.

If you have any questions regarding this matter, please contact Sari Pickeral in the Reports Analysis Division on our toll free number (800)424-9530. Our local number is (202)694-1130.

Sincerely,

Debbie Chacona

Debbie Chacona
Assistant Staff Director
Reports Analysis Division (RAD)

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12030984850



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2013 APR -3 PM 1:36

SENSITIVE

April 3, 2013

MEMORANDUM

To: The Commission

Through: Alec Palmer
Staff Director *AP*

From: Patricia C. Orrock *PCO*
Chief Compliance Officer
Rhiannon Magruder *RM*
Acting Reviewing Officer
Office of Administrative Review

Subject: Reviewing Officer Recommendation in AF# 2630 – Alex Pires for
U.S. Senate and Stephen W. Spence, in his official capacity as
Treasurer (C00521989)

The attached Reviewing Officer Recommendation is being circulated on an informational basis. A copy was also sent to the respondents in accordance with 11 C.F.R. § 111.36(f). The respondents may file with the Commission Secretary a written response within 10 days of transmittal of the recommendation.

After the 10 day period, the Reviewing Officer Recommendation and the respondents' written response, if any, will be circulated to the Commission to make a final determination.

Attachment

13092690757



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 3, 2013

**REVIEWING OFFICER RECOMMENDATION
OFFICE OF ADMINISTRATIVE REVIEW ("OAR")**

AF# 2630 – Alex Pires for U.S. Senate and Stephen W. Spence, in his official capacity as Treasurer (C00521989)

Summary of Recommendation

Make a final determination that the respondents violated 2 U.S.C. § 434(a) and assess a \$3,850 civil money penalty.

Reason-to-Believe Background

On February 5, 2013, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to timely file the 2012 30 Day Post-General Report and made a preliminary determination that the civil money penalty was \$3,850 based on the schedule of penalties at 11 C.F.R. § 111.43. A letter was mailed to the respondents' address of record from the Reports Analysis Division ("RAD") on February 6, 2013 to notify them of the Commission's RTB finding and civil money penalty.

Legal Requirements

The Federal Election Campaign Act ("Act") requires that post-general reports must be filed by the treasurer of a principal campaign committee no later than the 30th day after any general election in which the candidate has sought election and shall be complete as of the 20th day after the general election. 2 U.S.C. § 434(a)(2)(A)(ii) and 11 C.F.R. § 104.5(a)(2)(ii). All reports required to be filed by the principal campaign committee of a candidate for the office of U.S. Senator shall be filed with the Secretary of the Senate. Reports sent by certified or registered mail, Priority or Express Mail with delivery confirmation, or by an overnight delivery service with an on-line tracking system must be postmarked or deposited with the mailing service no later than the filing date to be timely filed. Reports sent by first class mail must be received by the close of business on the filing date to be timely filed. 2 U.S.C. § 434(a)(5), and 11 C.F.R. §§ 100.19(b) and 104.5(e). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

Respondents' Challenge

On March 18, 2013, the Commission received the written response ("challenge") from the Treasurer challenging the RTB finding. The respondents acknowledge their failure to timely file the 2012 30 Day Post-General Report but request the civil penalty be reduced or waived.

The Treasurer explains that he and the Candidate had no prior experience in running a campaign, and "...great effort was expended to ensure the Campaign was in compliance." Once the Candidate lost the election, resources devoted to compliance waned. "The Campaign believed in good-faith that, after the election, only the Year-End [R]eport remained due."

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The Campaign became aware of its failure to timely file the report on or around December 11, 2012. The Treasurer and his daughter worked quickly to file an accurate and complete report. The report was prepared using Aristotle software and sent via FedEx on January 9, 2013. The Treasurer states that "[this] demonstrates that, upon receiving notice of its failure [to file], the Campaign used its best efforts with a skeleton staff to file the Post-General [R]eport as quickly as practical."

The Treasurer also notes that "the Campaign is now closed and insolvent, [and] its final debts will have to be paid by [the Candidate]. Further, the Year-End Report was timely filed, and a termination report will be filed. Included with the challenge is a copy of the RTB Letter.

Analysis

The respondents contend they were unaware of the 2012 30 Day Post-General reporting requirement. However, the Commission notified the respondents of the reporting requirement on two occasions before the filing deadline. Commission records show that on October 3, 2012, the General Election Report Notice, which includes the reporting requirements of the 2012 30 Day Post-General Report, was sent via email to "sws@pgslaw.com," the email address disclosed on the Committee's Statement of Organization. On November 10, 2012, a reminder Notice was sent to the same email address.

The respondents state they became aware of their failure to timely file the report on or around December 11, 2012. The 2012 30 Day Post-General Report was filed on January 9, 2013.

The Reviewing Officer recognizes staff resources waned after the campaign became inactive, and any debts will have to be paid by the Candidate. However, unavailability of the treasurer or other staff and a committee's failure to know filing dates are included at 11 C.F.R. § 111.35(d) as examples of circumstances that will not be considered reasonably unforeseen and beyond the respondents' control. Their challenge fails to address any of the three valid grounds at 11 C.F.R. § 111.35(b). These are: (i) the RTB finding is based on factual errors; and/or (ii) the improper calculation of the civil money penalty; and/or (iii) they used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances that were beyond their control and they filed the report no later than 24 hours after the end of these circumstances. Therefore, the Reviewing Officer recommends that the Commission make a final determination that the respondents violated 2 U.S.C. § 434(a) and assess a \$3,850 civil money penalty.

OAR Recommendations

- 1) Adopt the Reviewing Officer recommendation for AF# 2630 involving Alex Pires for U.S. Senate and Stephen W. Spence, in his official capacity as Treasurer, in making the final determination;
- 2) Make a final determination in AF# 2630 that Alex Pires for U.S. Senate and Stephen W. Spence, in his official capacity as Treasurer, violated 2 U.S.C. § 434(a) and assess a \$3,850 civil money penalty; and
- 3) Send the appropriate letter.

Acting Reviewing Officer: Rhiannon Magruder

Attachments

Attachment 1 – Challenge Received from Respondents

Attachment 2 –

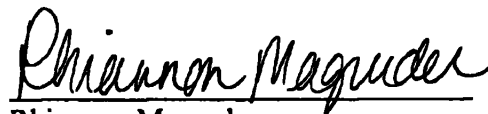
Attachment 3 – Declaration from RAD

Attachment 4 – Declaration from OAR

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DECLARATION OF RHIANNON MAGRUDER

1. I am the Acting Reviewing Officer in the Office of Administrative Review for the Federal Election Commission ("Commission"). In my capacity as Acting Reviewing Officer, I conduct research with respect to all challenges submitted in accordance with the Administrative Fine program.
2. The 2012 30 Day Post-General Report is due December 6, 2012. Senate principal campaign committees must file reports with the Secretary of the Senate. Reports sent by certified or registered mail, Priority or Express Mail with delivery confirmation, or by an overnight delivery service with an on-line tracking system must be postmarked or deposited with the mailing service no later than December 6, 2012 to be timely filed. It is the practice of the Office of Public Records, Secretary of the Senate to date stamp each report as it is received and complete an envelope prepressing page disclosing the method used to file the report as well as either the date of receipt or postmark.
3. It is the practice of the Reports Analysis Division to document all calls to or from committees regarding a letter they receive or any questions relating to the administrative fine regulations, including due dates of reports and filing requirements.
4. I hereby certify that I have searched the Commission's public records and that the documents identified herein are the true and accurate copies of:
 - a. Page 1 of the amended Statement of Organization filed by Alex Pires for U.S. Senate and Stephen W. Spence, in official capacity as Treasurer. According to the Commission's records, the document was filed July 20, 2012 and lists "sws@pgslaw.com" as the Committee's email address; and
 - b. Page 1 of the Summary Page for the 2012 30 Day Post-General Report filed by Alex Pires for U.S. Senate and Stephen W. Spence, in official capacity as treasurer. According to the Commission's records, the report was received on January 9, 2013 and covers the period from October 18 through November 26, 2012.
5. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Washington, D.C. on the 3rd of April, 2013.



Rhiannon Magruder
Acting Reviewing Officer
Office of Administrative Review
Federal Election Commission

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FEC
FORM 1

STATEMENT OF
ORGANIZATION

RECEIVED
SECRETARY OF THE SENATE
PUBLIC RECORDS

12 JUL 24 AM 9:22
Office Use Only

1. NAME OF
COMMITTEE (In full)

☐

(Check if name
is changed)

Example: If typing, type
over the lines.

12FE4M5

Alex Pires for U.S. Senate

ADDRESS (number and street)

1200 N. Broom St.

☐

(Check if address
is changed)

Wilmington

DE

19806

CITY

STATE

ZIP CODE

COMMITTEE'S E-MAIL ADDRESS (Please provide only one e-mail address)

☐

(Check if address
is changed)

sws@pgslaw.com

COMMITTEE'S WEB PAGE ADDRESS (URL)

☒

(Check if address
is changed)

36YearsIsEnough.com

2. DATE

05

30

2012

3. FEC IDENTIFICATION NUMBER

C00521989

4. IS THIS STATEMENT

☐

NEW (N)

OR

☒

AMENDED (A)

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer

Stephen W. Spence

Signature of Treasurer

Stephen W. Spence

Date

07

20

2012

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.

ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

Office
Use
Only

For further information contact:
Federal Election Commission
Toll Free 800-424-9530
Local 202-694-1100

FEC FORM 1
(Revised 02/2009)

SUMMARY PAGE

of Receipts and Disbursements

Write or Type Committee Name

Alex Pires for US Senate

Report Covering the Period:

From:

MM	DD	YYYY
10	18	2012

To:

MM	DD	YYYY
11	26	2012

	COLUMN A This Period	COLUMN B Election Cycle-to-Date
6. Net Contributions (other than loans)		
(a) Total Contributions (other than loans) (from Line 11(e))	7000	178243
(b) Total Contribution Refunds (from Line 20(d))	0	0
(c) Net Contributions (other than loans) (subtract Line 6(b) from Line 6(a))	7000	178243
7. Net Operating Expenditures		
(a) Total Operating Expenditures (from Line 17)	54581.84	396038.7
(b) Total Offsets to Operating Expenditures (from Line 14)	0	0
(c) Net Operating Expenditures (subtract Line 7(b) from Line 7(a))	54581.84	396038.7
8. Cash on Hand at Close of Reporting Period (from Line 27)	3734.92	
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)	0	
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)	240525.66	

For further information contact:

Federal Election Commission
999 E Street, NW
Washington, DC 20463

Toll Free 800-424-9530
Local 202-694-1100



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA OVERNIGHT DELIVERY

April 3, 2013

Stephen W. Spence, in official capacity as Treasurer
Alex Pires for U.S. Senate
1200 N Broom Street
Wilmington, DE 19806

C00521989

AF#: 2630

Dear Mr. Spence:

On February 5, 2013, the Federal Election Commission ("Commission") found reason to believe ("RTB") that Alex Pires for U.S. Senate and you, in your official capacity as Treasurer ("respondents"), violated 2 U.S.C. § 434(a) for failing to file the 2012 30 Day Post-General Report. The Commission also made a preliminary determination that the civil money penalty was \$3,850 based on the schedule of penalties at 11 C.F.R. § 111.43.

After reviewing the written response and any supplemental information submitted by you and Commission staff, the Reviewing Officer has recommended that the Commission make a final determination in this matter. A copy of the Reviewing Officer's recommendation is attached.

You may file with the Commission Secretary a written response to the recommendation within 10 days of the date of this letter. Your written response should be sent to the Commission Secretary, 999 E Street, NW, Washington, DC 20463. As a result of the anthrax threat in the Washington, DC area, US Postal Service mail delivery to federal agencies, including the Commission, has been interrupted. Until regular mail delivery resumes, you may also file your written response with the Commission Secretary via facsimile (202-208-3333) or by courier at the same address (if you use an overnight delivery service, please use zip code 20004 instead of zip code 20463). Please include the AF # in your response. Your response may not raise any arguments not raised in your original written response or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). The Commission will then make a final determination in this matter.

Please contact me at the toll free number 800-424-9530 (press 0, then press 1660) or 202-694-1660 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Rhannon Magruder".

Rhannon Magruder
Acting Reviewing Officer
Office of Administrative Review

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2013 APR 17 PM 3:19

April 17, 2013

MEMORANDUM

SENSITIVE

To: The Commission

Through: Alec Palmer
Staff Director

From: Patricia C. Orrock
Chief Compliance Officer

Rhiannon Magruder
Acting Reviewing Officer
Office of Administrative Review

Subject: Final Determination Recommendation in AF# 2630 – Alex Pires for U.S. Senate and Stephen W. Spence, in his official capacity as Treasurer (C00521989)

On February 5, 2013, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to file the 2012 30 Day Post-General Report and made a preliminary determination that the civil money penalty was \$3,850 based on the schedule of penalties at 11 C.F.R. § 111.43.

On March 18, 2013, the Commission received their written response ("challenge"). After reviewing the challenge, the Reviewing Officer's recommendation ("ROR") dated April 3, 2013 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. The Reviewing Officer recommended that the Commission make a final determination that they violated 2 U.S.C. § 434(a) and assess a \$3,850 civil money penalty because they submitted no evidence that a factual error was made in the RTB finding, that the penalty was miscalculated at RTB or that they used best efforts to file on time. 11 C.F.R. § 111.35(b).

Within 10 days of transmittal of the recommendation, they may file a written response with the Commission Secretary which may not raise any arguments not raised in their challenge or not directly responsive to the ROR. 11 C.F.R. § 111.36(f). As of this date, a written response has not been received.

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OAR Recommendations

- 1) Adopt the Reviewing Officer recommendation for AF# 2630 involving Alex Pires for U.S. Senate and Stephen W. Spence, in his official capacity as Treasurer, in making the final determination;
- 2) Make a final determination in AF# 2630 that Alex Pires for U.S. Senate and Stephen W. Spence, in his official capacity as Treasurer, violated 2 U.S.C. § 434(a) and assess a \$3,850 civil money penalty; and
- 3) Send the appropriate letter.

Acting Reviewing Officer: Rhiannon Magruder

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Final Determination Recommendation:) AF 2630
Alex Pires for U.S. Senate and Stephen)
W. Spence, in his official capacity as)
Treasurer (C00521989))

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on June 10, 2013, the Commission decided by a vote of 4-0 to take the following actions in AF# 2630:

1. Adopt the Reviewing Officer recommendation for AF# 2630 involving Alex Pires for U.S. Senate and Stephen W. Spence, in his official capacity as Treasurer, in making the final determination.
2. Make a final determination in AF# 2630 that Alex Pires for U.S. Senate and Stephen W. Spence, in his official capacity as Treasurer, violated 2 U.S.C. § 434(a) and assess a \$3,850 civil money penalty.
3. Send the appropriate letter.

Commissioners Hunter, Petersen, Walther and Weintraub voted affirmatively for the decision. Commissioner McGahn II recused himself with respect to this matter and did not vote.

Attest:

June 10, 2013
Date

Shawn Woodhead Werth
Shawn Woodhead Werth
Secretary and Clerk of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 14, 2013

VIA OVERNIGHT DELIVERY

Stephen W. Spence, in official capacity as Treasurer
Alex Pires for U.S. Senate
1200 N. Broom Street
Wilmington, DE 19806

C00521989
AF#: 2630

Dear Mr. Spence:

On February 5, 2013, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Alex Pires for U.S. Senate and you, in your official capacity as Treasurer, violated 2 U.S.C. § 434(a) for failing to file the 2012 30 Day Post-General Report. By letter dated February 6, 2013, the Commission sent notification of the RTB finding that included a civil money penalty calculated at RTB of \$3,850 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On March 18, 2013, the Office of Administrative Review received your written response, challenging the RTB finding.

The Reviewing Officer reviewed the Commission's RTB finding with its supporting documentation and the written response. Based on this review, the Reviewing Officer recommended that the Commission make a final determination that Alex Pires for U.S. Senate and you, in your official capacity as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty in the amount of \$3,850 in accordance with 11 C.F.R. § 111.43. The basis for the Reviewing Officer's recommendation was included in the Final Determination Report, a copy of which was sent to you on April 3, 2013.

On June 10, 2013, the Commission adopted the Reviewing Officer's recommendation and made a final determination that Alex Pires for U.S. Senate and you, in your official capacity as Treasurer, violated 2 U.S.C. § 434(a) and assessed a civil money penalty of \$3,850. It is based on the same factors used to calculate the civil money penalty at RTB. A copy of the final determination recommendation is attached.

On May 2, 2013, the Commission received your \$3,850 payment.

If You Choose to Appeal the Final Determination and/or Civil Money Penalty

If you choose to appeal the final determination, you should submit a written petition, within 30 days of receipt of this letter, to the district court of the United States for the district in

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which the committee or you reside, or transact business, requesting that the final determination be modified or set aside. See 2 U.S.C. § 437g(a)(4)(C)(iii). Your failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver of the respondents' right to present such argument in a petition to the district court under 2 U.S.C. § 437g. 11 CFR § 111.38.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. The file will be made a part of the public record pursuant to 11 CFR § 111.42(b). Although the file must be placed on the public record within thirty (30) days from the date of the Commission's notification, this could occur at anytime following certification of the Commission's vote.

If you have any questions regarding the payment of the civil money penalty, please contact Rhiannon Magruder on our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Ellen L. Weintraub
Chair

FQR: Alex Pires for U S Senate

FEC ID#: C00521989

AF#: 2630

PAYMENT DUE DATE: March 17, 2013

PAYMENT AMOUNT DUE: \$3,850

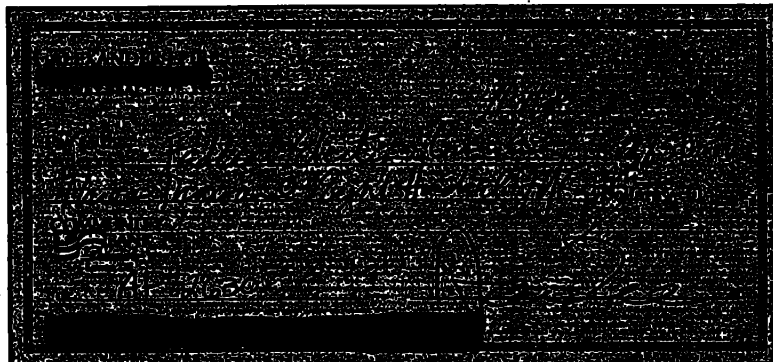
FEDERAL ELECTION COMMISSION

Lockbox: GLX-979058 Ledger Date 05/01/2013

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usbank.

St. Louis GA Lockbox
(314) 425-1818



Batch	Item	TID	Batch Total	Amount
1	1	Y-3008696	\$3,850.00	\$3,850.00



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 2630

DATE SCANNED 7-17-13

SCANNER NO. 2

SCAN OPERATOR CMD

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